

SEC. 37. *And be it enacted*, That if any person shall become entitled, as tenant by the courtesy, to an undivided part of the real estate of an intestate, after the return of the commissioners aforesaid, and before the sale or division thereof, the chancellor or county court shall be and they are hereby empowered, to order that the commissioners shall alter and change their return, and the commissioners shall upon service of the said order, proceed to alter their return, in such manner as that the tenant by the courtesy shall come in for his proportionable share of the said intestate's estate, with those who by law may be entitled to take as heirs of the intestate.

If any person shall become entitled as tenant by the courtesy after the return of commissioners, and before a sale or division, return to be altered, &c.

SEC. 38. *And be it enacted*, That where any person is entitled by deed or devise to a life estate in an undivided part of the real estate of an intestate, the same proceedings shall be had as are directed by this act with regard to tenancies by the courtesy; and where any person is entitled by deed or devise to the remainder after such life estate, the same proceedings shall be had as are directed by this act, where a person is entitled to an undivided part of an intestate's estate, subject to a tenancy by the courtesy.

Where a person is entitled to a life estate, &c. in an undivided part, &c. same proceedings to be had as directed with regard to tenancies by the courtesy.

SEC. 39. *And be it enacted*, That where a person is entitled to an undivided part of an intestate's real estate by devise in fee, the same proceedings shall be had as directed with regard to purchasers as aforesaid.

Where entitled by devise in fee, same proceedings shall be had as regards purchasers.

SEC. 40. *And be it enacted*, That in any case wherein all the commissioners appointed by the court of chancery, or by any county court, shall die before having completely executed the commission directed to them, or any order made in connection therewith, it shall and may be lawful for the chancellor, or such county court by whom such commission shall have been awarded, on the application by petition, in writing of any heir, representative, purchaser, or other party interested, to appoint other discreet and sensible men for the purpose of proceeding in the execution and completion of the commission originally issued, or of any order made in pursuance thereof, and every such petition shall set forth the substance of the first application, the issuing of the commission, the progress which the commissioners shall have made towards the execution thereof, and their decease, that the chancellor or court may be better enabled to understand what remains to be completed; and thereupon the said chancellor, or court, being first satisfied of the truth of what the petition shall allege, shall be, and they are hereby authorized and empowered, to nominate and appoint two, three, or more commissioners, according to the progress made by the deceased commissioners, for the purpose of completing the execution of the said commission, or of any order relating to the same.

Where all the commissioners die, leaving commission &c. unexecuted, others may be appointed, &c.